

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

TABLE OF CONTENTS

CHAPTER Env-Dw 1000 GRANTS FOR PUBLIC WATER SYSTEMS

PART Env-Dw 1001 GRANTS FOR SURFACE WATER TREATMENT, REGIONAL WATER SYSTEMS, AND GROUNDWATER INVESTIGATIONS

- Env-Dw 1001.01 Purpose
- Env-Dw 1001.02 Definitions
- Env-Dw 1001.03 Eligibility for Surface Water Treatment Grants
- Env-Dw 1001.04 Surface Water Treatment Reimbursement
- Env-Dw 1001.05 Eligibility for Surface Water Treatment Supplemental Grants
- Env-Dw 1001.06 Determining Average Cost of Water Service
- Env-Dw 1001.07 Eligibility for Regional Water System Grants and Groundwater Investigation Grants
- Env-Dw 1001.08 Scope of Work for Groundwater Investigation
- Env-Dw 1001.09 Application for Surface Water Treatment Grants, Regional Water System Grants, and Groundwater Investigation Grants
- Env-Dw 1001.10 Application Processing
- Env-Dw 1001.11 Payment Priority
- Env-Dw 1001.12 Priority of New Grants
- Env-Dw 1001.13 Assignment of Points for New Grant Applications
- Env-Dw 1001.14 Continuing Eligibility for Surface Water Treatment Supplemental Grants

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

CHAPTER Env-Dw 1000 GRANTS FOR PUBLIC WATER SYSTEMS

PART Env-Dw 1001 GRANTS FOR SURFACE WATER TREATMENT, REGIONAL WATER SYSTEMS, AND GROUNDWATER INVESTIGATIONS

REVISION NOTE:

This part was formerly designated Env-Ws 393 entitled Public Water Supply Grants. Document #8479, effective 11-30-05, readopted with amendments Env-Ws 393. This part was subsequently redesignated editorially with a new subtitle as Env-Dw 1001, entitled Grants for Surface Water Treatment, Regional Water Systems, and Groundwater Investigations, within a new Chapter Env-Dw 1000, entitled Grants for Public Water Systems, pursuant to a rules reorganization plan for Department rules approved by the Director of the Office of Legislative Services on 9-7-05. The numerals of the rules remained unchanged, and the source notes for the rules under Document #8479 refer to those numbers under the subtitle Env-Ws.

Env-Dw 1001.01 Purpose. The purpose of these rules is to implement RSA 486-A, which provides for state grants to:

- (a) Public water systems that have been required to comply with the surface water treatment rules of the federal Safe Drinking Water Act of 1986 and Env-Ws 380;
- (b) Public water systems which interconnect to form regional water systems; and
- (c) Public water systems which investigate the groundwater contributing area of wells with recorded levels of chemical contaminants, excluding methyl tertiary-butyl ether (MTBE).

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #8360, INTERIM, eff 6-4-05, EXPIRES: 12-1-05; ss by #8479, eff 11-30-05 (see Revision Note at part heading for Env-Dw 1001) (formerly Env-Ws 393.01)

Env-Dw 1001.02 Definitions.

- (a) "Construction" means "construction" as defined in RSA 486-A:2, I, as reprinted in Appendix I.
- (b) "Eligible groundwater investigation costs" means "eligible evaluation of the groundwater contribution area of public wells that have recorded levels of chemical contaminants excluding MTBE" as defined by RSA 486-A:2, III-c, as reprinted in Appendix I.
- (c) "Eligible regional water systems costs" means "eligible regional water system costs" as defined by RSA 486-A:2, III-b, as reprinted in Appendix I.
- (d) "Eligible surface water treatment costs" means "eligible surface water treatment costs" as defined in RSA 486-A:2, III, as reprinted in Appendix I.
- (e) "EPA" means "EPA" as defined in RSA 486-A:2, IV, namely "the United States Environmental Protection Agency."
- (f) "Expenditure" means payment to contractors and suppliers for eligible construction, material and equipment costs incurred for eligible activities.
- (g) "Fixture rate" means the method of billing in the drinking water utility field where the method of billing for water service is based on a tabulation of water use fixtures rather than metering and each fixture is assigned a weighting factor which recognizes frequency and volume of anticipated use.

(h) "Groundwaters" means "groundwaters" as defined in RSA 486-A:2, V-b, namely "all areas below the top of the water table, including aquifers, wells, and other sources of groundwater."

(i) "Method detection limit (MDL)" means the minimum concentration of a substance that can be measured and reported with 99 percent (%) confidence that the concentration is above zero.

(j) "Regional water system" means "regional water system" as defined in RSA 486-A:2, V-a, namely "the system which results from the interconnection of 2 or more discrete public water systems to provide routine or emergency reserve supply."

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #8360, INTERIM, eff 6-4-05, EXPIRES: 12-1-05; ss by #8479, eff 11-30-05 (see Revision Note at part heading for Env-Dw 1001) (formerly Env-Ws 393.02)

Env-Dw 1001.03 Eligibility for Surface Water Treatment Grants.

(a) In order to be eligible for surface water treatment grants in the amount of 20% of the total eligible surface water treatment costs, the water system shall:

(1) Draw its water supply from a surface water source, or a groundwater source under the direct influence of surface water as defined in Env-Ws 380.02(j);

(2) Have made expenditures for surface water treatment on or after June 19, 1986 related to construction; and

(3) Have received approval under RSA 485:8 for the construction plans related to the project.

(b) Grants shall apply to the amortization charges on eligible surface water treatment costs occurring after the original effective date of these rules, December 31, 1993.

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #8360, INTERIM, eff 6-4-05, EXPIRES: 12-1-05; ss by #8479, eff 11-30-05 (see Revision Note at part heading for Env-Dw 1001) (formerly Env-Ws 393.03)

Env-Dw 1001.04 Surface Water Treatment Reimbursement.

(a) Reimbursements to public water systems for eligible costs related to expenditures made for surface water treatment shall include all eligible expenditures made for surface water treatment whether the source of funds was from an appropriation, bond, or capital reserve account.

(b) Reimbursement shall recognize the cumulative eligible amortized costs incurred prior to the original effective date of these rules, December 31, 1993.

(c) The reimbursement shall be made as a single payout.

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #8360, INTERIM, eff 6-4-05, EXPIRES: 12-1-05; ss by #8479, eff 11-30-05 (see Revision Note at part heading for Env-Dw 1001) (formerly Env-Ws 393.04)

Env-Dw 1001.05 Eligibility for Surface Water Treatment Supplemental Grants.

(a) In order to be eligible for surface water treatment supplemental grants in the amount of 10% of the total eligible surface water treatment costs, the water system shall:

(1) Demonstrate to the department that construction will result in user fees for the average single family home that are 20% above the statewide average for residential customers as established by the department pursuant to Env-Ws 393.06; and

(2) Meet all eligibility requirements of Env-Ws 393.03.

(b) The effect of the 10% supplemental grant shall not be included in the amount used to calculate eligibility under this section.

(c) Where a system uses the fixture rate method, a list of all customers and their charges for the previous year shall be submitted to the department.

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #8360, INTERIM, eff 6-4-05, EXPIRES: 12-1-05; ss by #8479, eff 11-30-05 (see Revision Note at part heading for Env-Dw 1001) (formerly Env-Ws 393.05)

Env-Dw 1001.06 Determining Average Cost of Water Service.

(a) The average residential cost of water supply service in New Hampshire shall be based on an annual calendar year survey of the fee paid by a single family home using a fixed volume of water.

(b) The department shall determine this fixed volume based on a statewide assessment of the following factors:

(1) Average volume of interior domestic water use;

(2) Average exterior domestic water usage;

(3) Family unit of average size;

(4) Median family income;

(5) Average household size; and

(6) Any other factor that directly affects the average amount of water use which is endorsed by a majority of water systems through the annual survey.

(c) The average shall be calculated from the rates for those water systems serving more than 500 people with fire hydrant flow capability. The average shall be determined using the number of systems responding rather than using an average weighted in accordance with the systems' populations.

(d) The average rate calculation shall be valid when at least 75% of the systems questioned respond to the survey.

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #8360, INTERIM, eff 6-4-05, EXPIRES: 12-1-05; ss by #8479, eff 11-30-05 (see Revision Note at part heading for Env-Dw 1001) (formerly Env-Ws 393.06)

Env-Dw 1001.07 Eligibility for Regional Water System Grants and Groundwater Investigation Grants. As specified in RSA 486-A:3, III, any public water system which incurs eligible water system interconnection costs or eligible groundwater investigation costs shall be eligible for:

- (a) A state contribution of 25% of the annual amortization charges, meaning the principal and interest, on the bonded costs; and
- (b) A state contribution of 25% of non-bonded costs.

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #8360, INTERIM, eff 6-4-05, EXPIRES: 12-1-05; ss by #8479, eff 11-30-05 (see Revision Note at part heading for Env-Dw 1001) (formerly Env-Ws 393.07)

Env-Dw 1001.08 Scope of Work for Groundwater Investigation

(a) Engineering services for groundwater investigations that are eligible for reimbursement shall include the scientific evaluation of source(s) of contamination within the groundwater contributing area of public water system well(s) with regulated contaminant(s) detected at levels in the well(s) above the method detection limit, excluding MTBE.

(b) The scope of work for the groundwater investigations shall be prepared under the supervision of:

- (1) A professional engineer licensed in accordance with RSA 310-A; or
- (2) A professional geologist licensed in accordance with RSA 310-A.

(c) The scope of work for the groundwater investigation for public water system wells shall include the following work:

- (1) Identification of any possible past and present contaminant sources that may be impacting the public water system well;
- (2) Determination of the source of contamination that is impacting the public water system well; and
- (3) Characterization of the fate and transport of the contamination in the aquifer(s) that contributes water to the public water system well.

(d) The department shall approve the scope of work prepared in accordance with (b) and (c), above, when the work proposed:

- (1) Contains the information required by (c), above;
- (2) Is technically defensible; and
- (3) Will produce accurate results.

(e) If the department does not approve the scope of work, the department shall notify the applicant in writing of the reason(s) for the decision.

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #8360, INTERIM, eff 6-4-05, EXPIRES: 12-1-05; ss by 8479, eff 11-30-05 (see Revision Note at part heading for Env-Dw 1001) (formerly Env-Ws 393.08)

Env-Dw 1001.09 Application for Surface Water Treatment Grants, Regional Water System Grants, and Groundwater Investigation Grants. The applicant for a grant shall provide the following in writing to the department:

(a) The name, address, and EPA identification number of the water system that is applying for the grant;

(b) The name, mailing address, and daytime telephone number of the individual who can be contacted by the department regarding the application and, if available, a fax number and e-mail address for that individual;

(c) The total amount of the grant being requested;

(d) A brief description of the project to be completed using the grant;

(e) A description of costs associated with each element of construction and other tasks associated with eligible costs;

(f) A detailed financial statement indicating the portions of costs which are eligible costs as defined in Env-Ws 393.02(b) through (d), as applicable, with a description crafted so that each of the eligible and noneligible elements is identified separately;

(g) Information on how the local share of the project will be financed;

(h) The amortization schedule for bonding of eligible costs;

(i) If the applicant requests the additional 10% surface water treatment supplemental grant, a copy of the system's projected official billing schedule for water, adjusted to remove the effect of funds placed in capital reserve accounts;

(j) Information on how the proposed project and resulting land use impacts conform to land use master plans in the affected municipality(ies);

(k) As required by RSA 486-A:5, a statement that:

(1) The applicant has adopted or will adopt a system of charges to assure that each recipient of water service within the applicant's jurisdiction will pay a proportionate share of the costs of operation and maintenance of water services provided by the applicant; or

(2) For regional water system grants, a statement from each public water system that is to make payments to the applicant for water service provided through a regional water system interconnection that it has adopted, or will adopt, a system of charges to assure that each recipient of water service within the public water system will pay its proportionate share of such payments;

(l) An agreement as required by RSA 486-A:7, I, that the applicant:

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (1) Has installed or will install the waterworks facility(ies) in accordance with the plans and specifications approved by the department pursuant to RSA 485:8;
 - (2) Will provide proper and effective operation and maintenance of facility(ies);
 - (3) Agrees that failure to install the facility(ies) in accordance with the approved plans and specifications or to provide proper and efficient operation and maintenance of such facilities shall result in the loss of payment of the annual grant installment next following such failure; and
 - (4) For regional water system grants, agrees to participate in regional and statewide water supply planning initiatives and to consider the results of such initiatives for purposes of long-term water supply planning and infrastructure development;
- (m) For groundwater investigation, an agreement that the applicant will conduct the investigation in accordance with a scope of work developed in accordance with Env-Ws 393.08;
- (n) A written authorization designating an individual to sign official documents binding upon the applicant;
- (o) A statement signed by the individual authorized under Env-Ws 393.09(n) attesting to the accuracy of the application;
- (p) A copy of the warrant article or corporate resolution or other legally-binding document authorizing the project; and
- (q) A description of any other funds received by the applicant for the project, including but not limited to grants and loans from the U.S. Farmers Home Administration/Rural Development Administration, Housing and Urban Development/Community Development Block Grant, and contributions from developers.

Source: #8479, eff 11-30-05 (see Revision Note at part heading for Env-Dw 1001) (formerly Env-Ws 393.09)

Env-Dw 1001.10 Application Processing.

- (a) The applicant shall submit the project application as specified in Env-Ws 393.09 to the department.
- (b) The department shall determine whether a proposed project is eligible for a grant based on the eligibility requirements specified in Env-Ws 393.03, Env-Ws 393.05, or Env-Ws 393.07, as applicable.
- (c) The department shall notify the applicant in writing if the application has or has not been approved. If the application is not approved, the notice shall specify the reason(s) for the decision.
- (d) If the project is determined to be eligible for funding, the department shall add the project to the draft list of projects to be funded.
- (e) The department shall prioritize the projects on the draft list in accordance with Env-Ws 393.11(a) and Env-Ws 393.12.
- (f) The department shall provide public notice of, and conduct a public hearing on, the draft priority list as required by RSA 486-A:8-a.
- (g) After considering the testimony offered at the hearing, the commissioner shall finalize the priority list for the next fiscal year, and project assistance shall be granted accordingly.

Source: #8479, eff 11-30-05 (see Revision Note at part heading for Env-Dw 1001) (formerly Env-Ws 393.10)

Env-Dw 1001.11 Payment Priority.

(a) To the extent that payments on 2 or more grants originally awarded prior to the fiscal year in which additional payments are to be made are made out of a single state budget line, payments shall be made from available funds in the following order of priority:

- (1) Surface water treatment grants;
- (2) Regional water system grants for proposed regional interconnections;
- (3) Enhancement of existing regional interconnections to accommodate additional users; and
- (4) Groundwater investigation grants.

(b) To the extent that payments on 2 or more grants originally awarded prior to the fiscal year in which additional payments are to be made are made out of the same state budget line as grants being originally awarded in that fiscal year, the new grants shall be awarded based on funds remaining after payments on existing grants made in accordance with (a), above.

Source: #8479, eff 11-30-05 (see Revision Note at part heading for Env-Dw 1001) (formerly Env-Ws 393.11)

Env-Dw 1001.12 Priority of New Grants.

(a) The department shall approve new grants in accordance with the priority specified in Env-Ws 393.11(a), above, and the points awarded pursuant to Env-Ws 393.13.

(b) The priority list of new projects eligible to receive surface water treatment grants shall include the highest priority projects ready for construction and anticipated to receive grants from the appropriated funds within the next fiscal year.

(c) For new regional water system grants and groundwater investigation grants, the department shall approve the highest ranked projects for each grant category in the order noted in (a), above, until all available funding for that fiscal year is depleted.

(d) A project which is placed on the priority list shall be bypassed if the department determines that the project will not be ready to proceed during the current state fiscal biennium. Any project so bypassed shall receive priority ranking and be placed on the priority list in the next ranking cycle provided the applicant requests the department to reconsider the grant application and updates any date-sensitive aspects of the application.

(e) When 2 or more projects score equally under the priority point system, the department shall assign the higher ranking to:

- (1) The project with the greater existing population receiving water through the proposed regional water system project; or
- (2) For groundwater investigation projects, the project with the greater population impact.

(f) Projects which involve new interconnections between public water systems shall receive higher priority than projects which involve improvement of existing interconnections to provide more secure regional water systems.

Source: #8479, eff 11-30-05 (see Revision Note at part heading for Env-Dw 1001) (formerly Env-Ws 393.12)

Env-Dw 1001.13 Assignment of Points for New Grant Applications.

(a) The department shall assign priority points to applications for new regional water system grants and groundwater investigation grants based on the numerical system described in (b) through (g), below.

(b) Points assigned based on the residential population of the service area that would receive water through the proposed regional water system interconnection or that is or will be served by a well under investigation shall be:

- (1) For systems serving 25 to 500 people, one point;
- (2) For systems serving 501 to 5,000 people, 3 points; and
- (3) For systems serving more than 5,000 people, 5 points.

(c) Points assigned based on the degree to which the public's health, safety, and economic well-being will benefit from a proposed regional water system interconnection shall be:

- (1) For each system which has adequate quantity for the present but desires emergency backup supply, 2 points;
- (2) For each system which has seasonal water shortages, 4 points; and
- (3) For each system which has chronic, year-round shortages, 6 points.

(d) Points assigned based on the degree to which the public's health, safety, and economic well-being will benefit from the proposed groundwater investigation shall be:

- (1) For wells where a regulated contaminant has been detected at levels above the method detection limit but below one-half the maximum contaminant level (MCL) as defined in Env-Ws 310 to Env-Ws 316, 2 points;
- (2) For wells where a regulated contaminant has been detected at levels above one-half the MCL but below the MCL as defined in Env-Ws 310 to Env-Ws 316, 4 points; and
- (3) For wells where a regulated contaminant has been detected at levels above the MCL as defined in Env-Ws 310 to Env-Ws 316, 6 points.

(e) Points assigned based on the fiscal impact on user fees, without grant support, in the service area that would receive water through the proposed regional water system interconnection or will be served by a well under investigation shall be:

- (1) For systems where user fees would be between 1.0 and 1.5 % of the system's or town's median household income, based on the most recent U.S. Census or wage survey data, 2 points;
- (2) For systems where user fees would be over 1.5 but less than 2.0 % of the system's or town's median household income, based on the most recent U.S. Census or wage survey data, 4 point; and
- (3) For systems where user fees would exceed 2 % of the system's or town's median household income, based on the most recent U.S. Census or wage survey data, 6 points.

(f) Points assigned based on the fiscal impact on taxes, without grant support, in the service area that would receive water through the proposed regional water system interconnection or will be served by a well under investigation shall be:

(1) For systems where the local share of the property tax rate for the town or precinct would increase between 1.0 and 2.0 % in the year of greatest financial impact of the project, 2 points; and

(2) For systems where the local share of the property tax rate for the town or precinct would increase more than 2.0 % in the year of greatest financial impact of the project, 4 points.

(g) Points assigned based on the consistency of a proposed regional water system project with land use master plans in the affected municipality(ies) and with the provisions of RSA 9-B and RSA 162-C:2, V to the extent that the project may impact one or more of the municipalities' growth and development patterns, shall be:

(1) For systems where the project conforms with land use master plans in the affected municipality(ies) and with the provisions of RSA 9-B and RSA 162-C:2, V to a limited degree, 2 points; and

(2) For systems where the project conforms with land use master plans in the affected municipality(ies) and with the provisions of RSA 9-B and RSA 162-C:2, V to a significant degree, 4 points.

Source: #8479, eff 11-30-05 (see Revision Note at part heading for Env-Dw 1001) (formerly Env-Ws 393.13)

Env-Dw 1001.14 Continuing Eligibility for Surface Water Treatment Supplemental Grants. In order to maintain its eligibility for the 10% supplemental grant, the system shall annually submit its current official billing schedule to the department.

Source: #8479, eff 11-30-05 (see Revision Note at part heading for Env-Dw 1001) (formerly Env-Ws 393.14)

Appendix I – Statutory Definitions

RSA 486-A:2, I: “Construction” means:

(a) The installation or building of:

(1) New wells or well buildings;

(2) Filtration systems and associated pump stations, pump equipment, chemical treatment systems, telemetry and metering equipment, and storage tanks; and

(3) Distribution mains and valves needed to interconnect the new wells or filtration system to the existing system as may be required by the department and the EPA or to interconnect public water systems to form a regional water system.

(b) Altering, improving or adding to existing water treatment or water source, storage or transmission main facilities or regional water system interconnections in order to meet the requirements of the surface water treatment rules or to meet the water needs of a regional water system.

(c) Engineering services related to the activities identified under this paragraph, including the scientific evaluation of the groundwater contributing area of public wells with recorded levels of chemical contaminants, excluding MTBE, using a method approved by the department.

RSA 486-A:2, III: “Eligible surface water treatment costs” means the actual cost of construction and related services necessary for a municipality to comply with the surface water treatment rules of the department of environmental services and the EPA, but shall not include the following:

(a) Land acquisition, except for land which shall be an integral part of a well system or filtration system;

(b) Easements and rights-of-way necessary to the project;

(c) Distribution systems and any improvement thereto not necessary for the municipality to achieve compliance with the surface water treatment rules; and

(d) Any administrative, legal, and fiscal costs related to the project.

RSA 486-A:2, III-b: “Eligible regional water system costs” means that portion of the costs of construction and related services attributable, as determined by the department, to the provision of water for domestic, commercial, or fire protection purposes, whether as routine supply or emergency reserve supply, through one or more of the interconnections that form a regional water system, but shall not include any of the following:

(a) Land acquisition, except for land which shall be an integral part of a well system or filtration system.

(b) Easements and rights-of-way necessary to the project.

(c) Distribution systems and any improvement thereto not necessary for the municipality to achieve compliance with the surface water treatment rules.

(d) Administrative, legal, and fiscal costs related to the project.

RSA 486-A:2, III-c: “Eligible evaluation of the groundwater contribution area of public wells that have recorded levels of chemical contaminants excluding MTBE” means that portion of the actual costs of scientific evaluation of the contribution area of the sources of public drinking water, such as a well or surface water intake, through which water is likely to flow towards the source and related services attributable, as determined by the department, to the provisions of water for domestic, commercial, or fire protection purposes, whether as routine supply or emergency backup supply, through one or more interconnections that form a regional water system, but shall not include the following:

(a) Land acquisition, except for land which shall be an integral part of a well system or filtration system;

(b) Easements and rights-of-way necessary to the project;

(c) Distribution systems and any improvement thereto not necessary for the municipality to achieve compliance with the surface water treatment rules; and

(d) Any administrative, legal, and fiscal costs related to the project.

Appendix II - Statutes Implemented

Rule Section(s)	Statute(s) Implemented
Env-Dw 1001 (see also specific sections below)	RSA 486-A
Env-Dw 1001.01	RSA 486-A:1
Env-Dw 1001.02	RSA 486-A:1; RSA 486-A:2
Env-Dw 1001.03	RSA 486-A:3
Env-Dw 1001.04	RSA 486-A:3, I(a)
Env-Dw 1001.05	RSA 486-A:4
Env-Dw 1001.06	RSA 486-A:4
Env-Dw 1001.07	RSA 486-A:3, III
Env-Dw 1001.08	RSA 486-A:3, III
Env-Dw 1001.09	RSA 486-A:5, 6, and 7, I
Env-Dw 1001.10	RSA 486-A:8-a
Env-Dw 1001.11	RSA 486-A:8
Env-Dw 1001.12	RSA 486-A:8
Env-Dw 1001.13	RSA 9-B:4; RSA 486-A:8
Env-Dw 1001.14	RSA 486-A:4